

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Hoxie  
P.O. Box 28  
Hoxie, AR 72433

LIS No. 21- **026**  
Permit No. AR0020141  
AFIN 38-00035

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order ("Order") is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the regulations and rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the City of Hoxie (Respondent) and the Division of Environmental Quality<sup>1</sup> (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent operates a wastewater treatment plant ("facility") located on Liscomb Street Hoxie, Lawrence County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary, thence to Turkey Creek, thence to Village Creek, thence to the White River in Segment 4C of the White River Basin.

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<sup>1</sup> Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

4. Pursuant to the federal Clean Water Act, 33 U.S.C. § 1311(a) *et seq.*, the NPDES program prohibits the discharge of pollutants except as in compliance with a permit issued under the NPDES program in accordance with 33 U.S.C. § 1342(a).

5. DEQ is authorized under the Arkansas Water and Air Pollution Control Act (“Act”) to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an NPDES permit.

6. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...

(3) Violate any provisions of this chapter or of any rule or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [DEQ].

7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes DEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any rule or permit issued pursuant to the Act.

8. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), “[e]ach day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

9. DEQ issued the current NPDES Permit Number AR0020141 (“Permit”) to Respondent on April 25, 2014, with an effective date of May 1, 2014, and an expiration date of April 30, 2019. DEQ issued the renewal Permit on March 26, 2020. The Permit became effective on May 1, 2020, and expires on April 30, 2025.

10. On May 10, 2018, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

11. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from April 1, 2015, through March 31, 2018 :

- a. Twenty-seven (27) violations of Total Suspended Solids;
- b. Eight (8) violations of Ammonia Nitrogen;
- c. Four (4) violations of Carbonaceous Biochemical Oxygen Demand;
- d. One (1) violation of Fecal Coliform Bacteria;
- e. One (1) violation of pH; and
- f. One (1) violation of Dissolved Oxygen.

12. Each of the forty-two (42) discharge limitation violations listed in Paragraph 11 above constitutes a separate permit violation for a total of forty-two (42) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

13. On May 11, 2018, DEQ sent Respondent a letter requesting a Corrective Action Plan (CAP) to address the violations of the permitted effluent limitations. The CAP was to have a milestone schedule, a final date of compliance, and be certified by a Professional Engineer (P.E.) licensed in the state of Arkansas.

14. On June 4, 2018, Respondent submitted a CAP to DEQ with a final compliance date of November 30, 2018.

15. On July 2, 2018, DEQ sent Respondent a letter approving the CAP submitted on June 4, 2018. The letter also asked Respondent to submit a Certification of Compliance to DEQ by December 31, 2018, certifying that the corrective actions detailed in the CAP submitted on June

4, 2018, had been completed and the facility was in compliance with the effluent limitations of the Permit.

16. DEQ did not receive the requested certification that the corrective actions detailed in the CAP submitted on June 4, 2018, had been completed and the facility was in compliance with the effluent limitations of the Permit by December 31, 2018. To date, DEQ has not received that certification.

17. On June 23, 2020, DEQ sent Respondent an email regarding the incomplete Noncompliance Report (NCR) submitted for the violations reported on the DMR for the monitoring period end date of May 31, 2020. DEQ informed Respondent that Respondent must complete the NCR and resubmit it with Respondent's DMR by June 25, 2020, to comply with Respondent's Permit.

18. To date, the NCR has not been completed.

19. On October 5, 2020, DEQ conducted a follow-up review of certified DMRs submitted by Respondent in accordance with the Permit.

20. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from January 1, 2019, through August 31, 2020:

- a. Thirteen (13) violations of Total Suspended Solids;
- b. Ten (10) violations of Ammonia Nitrogen; and
- c. Four (4) violations of Carbonaceous Biochemical Oxygen Demand.

21. Each of the twenty-seven (27) discharge limitation violations listed in Paragraph 20 above constitutes a separate permit violation for a total of twenty-seven (27) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

22. DEQ also reviewed Respondent's NCRs. The NCRs for the violations reported for the following DMR Monitoring Period End Dates were incomplete because they lacked information about the cause of the violation and the corrective actions taken:

- a) January 31, 2018;
- b) March 31, 2018;
- c) April 30, 2019;
- d) May 31, 2019;
- e) June 30, 2019;
- f) July 31, 2019;
- g) January 31, 2020;
- h) February 29, 2020;
- i) April 30, 2020;
- j) May 31, 2020;
- k) June 30, 2020; and
- l) July 31, 2020.

Failure to submit a completed NCR is a violation of Part III, Section D, Conditions 6 and 7 of the Permit and therefore is a violation of Ark. Code Ann § 8-4-217(a)(3).

23. On October 7, 2020, DEQ sent Respondent a letter requesting a CAP to address the violations of the permitted effluent limitations. The CAP was to have a milestone schedule, final date of compliance and be certified by a P.E. licensed in the state of Arkansas.

24. On October 30, 2020, Respondent submitted a CAP to DEQ with a final compliance date of November 30, 2021.

25. On November 20, 2020, DEQ sent Respondent a letter approving the CAP submitted on October 30, 2020.

### ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall implement the approved CAP in accordance with the milestone schedule contained in the CAP submitted to DEQ on October 30, 2020. The approved CAP, the milestone schedule and the final compliance date of November 30, 2021, shall be fully enforceable as terms of this Order.
2. On or before the fifteenth (15th) day of the month following the effective date of this Order and each quarter thereafter for a period lasting until this Order is closed, Respondent shall submit quarterly progress reports detailing the progress that has been made towards compliance with the final permitted effluent limits set forth in Part I, Section A of the Permit. Respondent shall submit the final compliance report by the final compliance date of November 30, 2021.
3. On or before the effective date of the Order, Respondent shall complete the NCRs detailed in Paragraph 22 of the Findings of Fact and submit NCRs in accordance with Part III, Section D, Conditions 6 and 7 of the Permit.
4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Two Thousand Five Hundred Dollars (\$2500.00), of which Two Thousand Five Hundred (\$2500.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Two Thousand Five Hundred Dollars (\$2500.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order. If Respondent violates any term of this Order, the full balance of Two Thousand Five Hundred

Dollars (\$2500.00) shall be payable to DEQ on demand. Such payment of the penalty shall be made payable to the Division of Environmental Quality, and mailed to the attention of:

DEQ, Fiscal Division  
5301 Northshore Drive  
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.

5. Failure to meet any requirement or deadline of this Order constitutes a violation of this Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to DEQ stipulated penalties according to the following schedule:

- a. First day through fourteenth day: \$100.00 per day
- b. Fifteenth day through the thirtieth day: \$500.00 per day
- c. Each day beyond the thirtieth day: \$1000.00 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of failure by Respondent to comply with the requirements of this Order.

6. If any event, including but not limited to an act of nature, occurs that causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall so notify DEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates specified in this Order. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

7. DEQ may grant an extension of any provision of this Order if Respondent requests such an extension in writing, and the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period, but in no event longer than the period of delay resulting from such circumstances. Respondent has the burden of proving that any delay is caused by circumstances beyond the control and without the fault of Respondent, as well as the length of the delay attributable to such circumstances. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

8. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to respond adequately to such Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this Order.

9. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this Order based upon the comments received within the thirty (30) day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the month following the date this Order is executed. As provided by APC&EC Rule 8, this matter is subject to being reopened upon Commission initiative, or in the event a petition to set aside this Order is granted by the Commission.



10. Nothing in this Order shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

11. This Order has been reviewed and approved by the City Council of Respondent in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit A.

12. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of Respondent. See Exhibit A.

13. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to expend funds for compliance activities required by this Order including but not limited to the payment of a civil penalty as set forth in this Order. See Exhibit A

SO ORDERED THIS 25 DAY OF March, 2021.

Becky W Keogh  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Hoxie

BY: Dennis Caggins  
(Signature)

Dennis Caggins  
(Typed or printed name)

TITLE: Mayor

DATE: 3-23-21

**DENNIS COGGINS**

*Mayor*

**PEGGY MILES**

*Clerk-Treasurer*

# City of Hoxie

*126 Southwest Texas*

*Hoxie, Arkansas 72433*

*Phone (870) 886-2742*

*Fax (870) 637-5911*

**Ward I**

*Darrell Pickney, Pos. 1*

*Tim Taylor, Pos. 2*

**Ward II**

*Larry Couch, Pos. 1*

*Kerrie Hancock, Pos. 2*

**Ward III**

*Becky Linebaugh, Pos. 1*

*Jerry Decker, Pos. 2*

MINUTES

HOXIE CITY COUNCIL

MARCH 9, 2021

THE HOXIE CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, MARCH 9, 2021 AT 6:30PM AT THE HOXIE CITY HALL.

Mayor Dennis Coggins calling the meeting to order at 6:30pm.

Council Member Jerry Decker opened the meeting with prayer

ROLL CALL: Jerry Deck-Here, Tim Taylor-Here, Becky Linebaugh-Here, Kerrie Hancock-Absent, Larry Couch-Here, Darrell Pickney-Here:

Dennis ask that a motion would be made to approve the minutes for the January 9, 2021 meeting.

A motion was made by Larry Couch and second by Tim Taylor to approve last month's minutes;

ROLL CALL: Taylor-Yes, Couch-Yes, Decker-Yes, Linebaugh-Yes, Hancock-Absent, Pickney-Yes;

MOTION PASSED

POLICE DEPARTMENT: Glen was absent due to being at the hospital having test run. Mayor Coggins read the monthly report of FTA-3, Criminal charges-42, NIBRS-9, Total contacts-9.

STREET/SANITATION. (Street) Mike gave the report that they have unstopped several ditches and will be starting to ditch this month. (Sanitation) is back on doing their normal route. Jerry Decker ask why trash was not picked up in his area. Mike is checking in on this matter.

FIRE DEPARTMENT: Travis gave report that there has been a total of 23 call with 14 of them being done in February and that the department has did 90 training hours. Rob advised that Jeff Hart had resigned, and instead of hiring another full time firefighter that the department had voted on using 2 part time firefighter. Robert Lee will be working 30 hours weekly and Travis Wheeler will be working 10 hours weekly. Rob also advised that the department will be starting the business inspections on Friday. Advised that Engine 2 has a major leak and they will be taking it to Batesville on Friday to have it worked on.

WATER/SEWER: Tommy gave the report that the department had finished up on the meter reads, turning off people's water from leaks and busted pipes for the bad weather, got the sewer main on 4<sup>th</sup> street fixed, kept up with work orders from City Hall, fixed several service lines and leaks due to the bad

weather, replaced sewer lines on Annie street that was collapsed, and finished up installing the new blower motors at the sewer pond.

CODE ENFORCEMENT: Wilson gave the report that he had did 9 animal calls, 15 total reports, 2 written warnings and 0 days in court.

NEW BUSINESS:

- A. CLOSING OUT BUDGET FOR 2020: Nancy read the Resolution of closing out 2020 budget and no questions was ask. Dennis ask for motion to accept the Resolution. Motion made by Jerry Decker and second by Becky Linebaugh; ROLL CALL: Decker-Yes, Taylor-Yes, Linebaugh-Yes, Hancock-Absent, Pickney-Yes, Couch-Yes. MOTION PASSED.
- B. CHRISTMAS LIGHTS: Dennis reported that the lights has been ordered and cost was somewhere around \$15,000.00 and that the city has already deposited \$4,000.00 in donations and this doesn't include the \$5,000.00 that Pratts will be donating. He advised that the lights will be snowflakes and that the City order 20 White and 20 Green and they will be rotated every other light pole.
- C. DISCUSS OLD HIGHWAY TO MINTURN: Rails to Trails might be interested in going in with the City on this project. Wanting to put in a bicycle trail from City limits to City limits which will be 9 miles.
- D. DISCUSS SIDEWALKS AND LIGHTS DOWN TEXAS STREET: Dennis advised that the sidewalks will be 6 foot and with every 20 foot there will be solar light. This project will be done in 2 stages. Stage 1 sidewalks will be going from City Hall to Donut Shop and Stage 2 sidewalks will be going from City Hall to Ma&Pa's Flea Market.
- E. ORDINANCE TO DETERMINE THE SALARY OF A HIRED CITY ATTORNEY OF HOXIE: Nancy read the Ordinance and advised the council this was the raise they voted on in 2020 that nothing was changing. Dennis ask for a motion to accept the ordinance. Motion made by Darrell Pickney and second by Jerry Decker; ROLL CALL: Couch-Yes, Decker-Yes, Taylor-Yes, Linebaugh-Yes, Hancock-Absent, Pickney-Yes. MOTION PASSED.

Dennis ask for motion to accept for 2<sup>nd</sup> and 3<sup>rd</sup> reading of Ordinance. Motion was made by Tim Taylor and second by Becky Linebaugh. ROLL CALL : Decker-Yes, Taylor-Yes, Linebaugh-Yes, Hancock-Absent, Couch-Yes, Pickney-Yes. MOTION PASSED

Dennis ask for motion to accept Emergency clause on ordinance. Motion was made by Becky Linebaugh and second by Darrell Pickney; ROLL CALL: Taylor-Yes, Linebaugh-Yes, Hancock-Absent, Couch-Yes, Decker-Yes, Pickney-Yes. MOTION PASSED

OLD BUSINESS:

- A. ORDINANCE TO ESTABLISH CITY COUNCIL MEETING PROCEDURES: Nancy read the ordinance and no other discuss. Dennis ask for motion to accept ordinance. Motion was made by Tim Taylor and second by Becky Linebaugh; ROLL CALL: Couch-Yes, Decker-Yes, Taylor-Yes, Linebaugh-Yes, Hancock-Absent, Pickney-Yes. MOTION PASSED

Dennis ask for motion to accept Emergency clause on ordinance. Motion was made by Becky Linebaugh and second by Jerry Decker. ROLL CALL: Decker-Yes, Taylor-Yes, Linebaugh-Yes, Hancock-Absent, Couch-yes, Pickney-Yes. MOTION PASSED.

- B. UPDATE ON SEWER POND/AUTHORITY TO SIGN ALL PAPER WORK: Dennis advised that ADEQ was going to drop all the fines due to the City complying too their request of what they ask the City to fix. Dennis also advised that he need the authority from the City Council to sign all the paperwork on this matter. Dennis ask for motion to be made for him to have the authority to sign all paperwork. Motion was made by Darrell Pickney and second by Tim Taylor. ROLL CALL: Taylor-Yes, Linebaugh-Yes, Couch-Yes, Hancock-Absent, Decker-yes, Pickney-Yes. MOTION PASSED.

HERE FROM VISITORS: Kim Hammock which is now the new owner of the Ma&Pa's Flea Market stated that her and her husband was proud to be part of Hoxie and that if we needed any help on anything going on with the City that they would be more than glad to help out in any way possible.

ACCEPT REPORTS AND PAY BILLS: Dennis ask for motion to accept reports and bills. Motion was made by Larry Couch and second by Becky Linbaugh; ROLL CALL: Couch-Yes, Decker-Yes, Taylor-Yes, Linebaugh-Yes, Hancock-Absent, Pickney-Yes. MOTION PASSED.

Jerry Decker made a motion to Adjourn meeting and it was second by Tim Taylor: ROLL CALL: Decker-Yes, Yaylor-Yes, Linebaugh-Yes, Hancock-Absent, Couch-Yes, Pickney-Yes. Meeting was adjourned at 7:01 pm.

  
Dennis Coggins, Mayor

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Peggy Miles, City Clerk

  
Delinda Duckworth, Admin. Asst.